

## **Release of Liability, Assumption of Risk, and Indemnification Agreement**

1. **ACTIVITY AND ASSOCIATED RISKS:** I have chosen to participate in the following activity: TOUR DE BOERNE Bike Tour (cycling)

(hereinafter referred to as “the Activity”), which is organized by Tour de Boerne (hereinafter referred to as “TDB”). I understand that:

a. The Activity is inherently dangerous, and I may be exposed to dangers and hazards, including but not limited to some or all of the following (depending on the nature of the Activity): falls, fractures, concussions, dangerous weather, overexertion, overheating, injuries from my lack of fitness or conditioning, hypothermia, hostile or aggressive wildlife, death, equipment failures, losing control of or crashing the bike, traffic, collisions with moving or parked vehicles or other obstacles, road and/or mountain bike trail hazards (for example - sewer gratings, gravel, logs and debris), failure to wear a helmet and/or other protective equipment, and negligence of others as well as other risks.

b. My participation in the Activity could result in serious bodily injury, disability or death and may result in personal property damage.

c. Hospital facilities, qualified medical care, and emergency medical evacuation may be limited or unavailable during portions of the Activity; and

d. By my signature below I acknowledge that TDB assumes no responsibility for providing medical care during the Activity, and I will have to pay for any medical care and/or evacuation that I may be necessary or incur, and hereby indemnify and release TDB from any and all responsibility for providing for my medical care during the Activity.

2. **ASSUMPTION OF THE RISKS:** I hereby freely assume the above-mentioned risks as well as other risks not listed that are part of this activity, both known and unknown, and any harm, injury damage or loss that may occur to me or my property as a result of my participation in the Activity or during any transportation to or from the Activity—including, but not limited to, any injury damage or loss caused by the negligence of TDB, its employees, agents, and officers, its contractors, and other Activity participants. I also understand that any equipment that I provide or that I may borrow or rent from TDB or any other provider I use at my own risk and that any such equipment is provided without any warranty about its condition or suitability for any purpose.

3. **RELEASE OF LIABILITY:** I hereby RELEASE TDB, its employees, agents, officers, and contractors, the providers of any equipment used in the Activity, land owners, municipal or governmental providers of use permits, and their respective agents, attorneys, employees, officers, and directors or other related persons or entities (“the Released Parties”) FROM ANY AND ALL LIABILITIES, CAUSES OF ACTION, CLAIMS AND DEMANDS that arise in any way from any injury, death, loss or harm that occurs to me or to any other person or to any property during the Activity or is in any way related to the Activity, including during transportation to or from the Activity. This RELEASE includes claims for the negligence of the Released Parties and claims for strict liability for abnormally dangerous activities. This RELEASE does not extend to claims for gross negligence, intentional or reckless misconduct, or any other liabilities that Texas law does not permit to be excluded by agreement. I also agree NOT TO SUE or make a claim against the Released Parties for wrongful death, injuries, loss, damages, or harm incurred during the Activity or is related in any way to my participation in the Activity.

4. **INDEMNIFICATION HOLD HARMLESS AND DEFENSE:** I promise to INDEMNIFY, HOLD HARMLESS AND DEFEND the Released Parties (defined in Section 3) against any and all claims to which Section 3 of this agreement applies, including claims for their own negligence. I also promise to INDEMNIFY, HOLD HARMLESS AND DEFEND the Released Parties against any and all claims for my own negligence, and any and all other claims arising from my conduct during or my participation in the Activity. In accordance with these promises, I will reimburse the Released Parties for any damages, reasonable settlements and defense costs, including attorney’s fees, that TDB incurs because of any such claims made against them. I agree that in the event of my death or disability, the terms of this agreement, including the indemnification provisions and obligations in this Section, will

be binding on my estate, and my personal representative, executor, administrator or guardian and will survive my death or disability.

5. **AGREEMENT TO FOLLOW DIRECTIONS:** I, by my signature below, agree to follow the rules for the Activity provided to me and to follow directions given to me by the leaders of the Activity, including WEARING A BICYCLE HELMET AT ALL TIMES whenever I am riding.

6. **INDEPENDENT CONTRACTORS:** I acknowledge that TDB has no control over and assumes no responsibility for the actions of any independent contractors providing any services for the Activity.

7. **USE OF MY LIKENESS:** I understand that during the Activity I may be photographed or videotaped. To the fullest extent allowed by law, I waive all rights of publicity or privacy or pre-approval that I have for any such likeness of me or use of my name in connection with such likeness, and I grant to TDB and its assigns permission to copyright, use, and publish (including by electronic means) such likeness of me, whether in whole or part, in any form, without restrictions, and for any purpose.

8. **SEVERABILITY:** I agree that the purpose of this agreement is that it shall be an enforceable RELEASE OF LIABILITY AND INDEMNITY as broad and inclusive as is permitted by Texas law. I agree that if any provisions of this agreement is held in whole or part to be unenforceable for any reason, the remainder of that provision and of this agreement shall be severable and remain in effect. I also agree that any invalid provision will be modified or partially enforced to the maximum extent permitted by law to carry out the purpose of the agreement.

9. **APPLICABLE LAW, FORUM & ATTORNEY'S FEES:** This agreement is governed by and shall be construed in accordance with the laws of the state of Texas, without any reference to its choice of law rules. Any litigation brought by any party with regard to this contract shall be instituted and maintained only in Kendall County, Texas, and Kendall County, Texas shall have exclusive jurisdiction over any matter or litigation arising from the Activity or this agreement. In any litigation in which the validity or enforceability of this agreement is contested, I agree that the non-prevailing party will pay all attorney's fees and costs of the parties seeking to uphold the agreement. A prevailing party includes a the party to whom an invalid provision is modified or partially enforced to carry out the purpose of the agreement.

I HAVE FULLY READ, UNDERSTOOD, AND AGREE TO ALL OF THE CONTENTS OF THIS AGREEMENT AND HAVE READ IT BEFORE SIGNING IT. NO ORAL REPRESENTATIONS, STATEMENTS OR OTHER INDUCEMENTS TO SIGN THIS RELEASE HAVE BEEN MADE APART FROM WHAT IS CONTAINED IN THIS DOCUMENT. I UNDERSTAND THIS IS A CONTRACT THAT AFFECTS MY LEGAL RIGHTS AND I SIGN IT OF MY OWN FREE WILL. I AM NOT UNDER THE INFLUENCE OF ANY MEDICATION OR ALCOHOL THAT WOULD IMPAIR MY ABILITY TO ENTER INTO THIS AGREEMENT. I ACKNOWLEDGE THAT I AM MENTALLY COMPETENT TO ENTER INTO THIS AGREEMENT AND AM DOING SO FREELY AND VOLUNTARILY.

10. **PHOTOS TAKEN AT TOUR DE BOERNE RIDE MAY 18, 2019:** You agree to allow your photo, if taken, to be used for the TourdeBoerne.com website. All photos taken by Tour de Boerne photographers are property of Tour de Boerne.

11. This contract contains the entire agreement between the parties. Nothing outside this agreement shall be construed to be part of this contract. All changes to this contract must be in writing.

12. I UNDERSTAND THAT THIS IS A BINDING CONTRACT. I HAVE READ AND HAD AN OPPORTUNITY TO ASK ALL QUESTIONS I WISH TO ASK ABOUT THE TERMS OF IT, AND I UNDERSTAND IT AND AGREE TO ABIDE BY THESE TERMS.

BY MY SIGNATURE BELOW AND IN CONSIDERATION OF BEING PERMITTED TO PARTICIPATE IN THE ACTIVITY, I AGREE TO ALL THE TERMS CONTAINED IN THIS RELEASE.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name Printed: \_\_\_\_\_ Date of birth: \_\_\_\_\_

**If participant is a minor, signature of parent or responsible adult is required below:**

**In consideration of the minor child being permitted to participate in the Activity, I accept and agree to the full contents of this agreement on behalf of the minor child. I certify that I have the authority to sign on behalf of the minor child and to make decisions for the minor child regarding this Activity. I also agree to RELEASE, HOLD HARMLESS, INDEMNIFY AND DEFEND the Released Parties (defined in Section 3) from all liabilities and claims that arise in any way from any injury, death, loss, damage or harm that occurs to the minor child during the Activity or in any way related to the Activity. This includes any claim of the minor and any claim arising from the negligence of the Released Parties. I understand that nothing in this agreement is intended to release claims for gross negligence, intentional, or reckless misconduct, or any other liabilities that Texas law does not permit to be excluded by agreement. I also promise to INDEMNIFY, HOLD HARMLESS AND DEFEND the Released Parties against any and all claims for my minor child's negligence, and any and all other claims arising from my minor child's conduct during or my minor child's participation in the Activity. In accordance with these promises, I will reimburse the Released Parties for any damages, reasonable settlements and defense costs, including attorney's fees, that TDB incurs because of any such claims made against them. I agree that in the event of my minor child's death or disability, the terms of this agreement, including the indemnification provisions and obligations in this Section, will be binding on my minor child's estate, and personal representative, executor, administrator or guardian and will survive my minor child's death or disability.**

Parent/Responsible Adult Signature: \_\_\_\_\_

Name Printed: \_\_\_\_\_

(relationship): \_\_\_\_\_ Date: \_\_\_\_\_